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6                   UNITED STATES DISTRICT COURT  
7                   EASTERN DISTRICT OF WASHINGTON  
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9                   CALVIN ROUSE (a.k.a. ABDUR  
10                  RASHID KHALIF),  
11                  Plaintiff,  
12                  v.  
13                  Defendants.

14                  NO: 12-CV-5092-TOR

15                  ORDER DENYING MOTION FOR  
16                  RECONSIDERATION

17                  BERNIE WARNER, STEVE  
18                  SINCLAIR, GARY PIERCE, VIVIA  
19                  GAINS, JIMMY GUZMAN, SGT.  
20                  COUGHRON, and C/O ZARAGOZA,

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22                  BEFORE THE COURT is Plaintiff's "Motion for Reconsideration and  
23                  Amend[ment] of Judgment" (ECF No. 16). Plaintiff asks the Court to reconsider  
24                  its October 3, 2012 Order dismissing his Second Amended Complaint with  
25                  prejudice (ECF No. 14) pursuant to Federal Rule of Civil Procedure 59(e).

26                  Motions for reconsideration serve a limited function. "The major grounds  
27                  that justify reconsideration involve an intervening change of controlling law, the  
28                  availability of new evidence, or the need to correct a clear error or prevent manifest  
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30                  ORDER DENYING MOTION FOR RECONSIDERATION -- 1

1       injustice.” *Pyramid Lake Paiute Tribe v. Hodel*, 882 F.2d 364, 369 n. 5 (9th Cir.  
2       1989) (quotation, citation and modification omitted). Such motions are not the  
3       proper vehicle for offering evidence or theories of law that were available to the  
4       party at the time of the initial ruling. *Fay Corp. v. Bat Holdings I, Inc.*, 651  
5       F.Supp. 307, 309 (W.D. Wash. 1987).

6               In the instant case, Plaintiff has neither alleged that there has been an  
7       intervening change of controlling law nor offered newly discovered evidence that  
8       would justify re-examining the issue. Thus, the only remaining question is  
9       whether the Court should alter its prior ruling in order to “correct a clear error or  
10      prevent manifest injustice.” *Pyramid Lake*, 882 F.2d at 369 n. 5.

11               In his motion for reconsideration, Plaintiff again offers conclusory  
12      allegations of retaliation. The Court liberally construed the Second Amended  
13      Complaint in the light most favorable to Plaintiff and found that he failed to  
14      present facts showing actual injury to his access to the court under *Lewis v. Casey*,  
15      518 U.S. 343, 351-52 (1996), or facts sufficient to invoke procedural due process  
16      protections under *Sandin v. Conner*, 515 U.S. 472, 483-84 (1995). By merely  
17      asserting that all Defendants acted under color of state law, Plaintiff has failed to  
18      state a claim upon which relief may be granted. Again, Plaintiff did not support his  
19      conclusory allegations with facts showing how any identified Defendant deprived  
20      him of a constitutional right.

1 Accordingly, **IT IS ORDERED** that Plaintiff's Motion for Reconsideration,  
2 ECF No. 16, is **DENIED**.

3 **IT IS SO ORDERED.** The District Court Executive is directed to enter this  
4 Order and forward a copy to Plaintiff. The file shall remain closed. The Court  
5 certifies that any appeal of this decision would not be taken in good faith.

6 **DATED** this 24<sup>th</sup> day of October 2012.

7 *s/ Thomas O. Rice*

8 THOMAS O. RICE  
9 United States District Judge